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## PRE APPEAL BRIEF REQUEST FOR REVIEW

Appl. No.: 10/608,989

Applicant: Kotzin

Filed: June 27, 2003

Examiner: Knepper, David D

TC/A.U.: 2654

Docket No.: CS22156RL/10-160

Accompanying Arguments/Discussion

Filed December 30, 2005

**History:** The present application was filed on June 27, 2003. On or about April 25, 2005 a first Office Action was mailed that rejected all claims under one or more of §112 or §103(a). An Amendment and Response was filed on or about July 25, 2005 wherein the Title, Abstract, Specification and various claims were amended to resolve technicalities and address various concerns raised by the Examiner. More specifically original claims 30-31 were renumbered to claims 29-30 and claims 1-5, 7, 10, 12-16, 18, 21 23-26, 29, and 30 were amended to replace [voiced] with spoken and [communications unit] with subscriber device without impacting the scope of the claims as originally filed. The independent claims 1, 12, and 23 were further amended to clarify the source of the spoken instructions. On or about October 25, 2005 a Final Office Action was mailed which withdrew the claim rejections under §112, but otherwise maintained the rejections under §103(a).

**Status and this Response:** Claims 1-30 are pending and stand rejected on varying grounds under 103(a). No claims are being amended, canceled, or added and no other papers are pending. In view of the comments below, Applicant respectfully submits that the rejections have been traversed and thus requests that the Panel reconsider the present application including claims 1-30 and withdraw the rejection of these claims.

a. Claims 1-3, 6, 7, 12-14, 17, 18, 23, 24, and 26 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Miner et al (U.S. Patent No. 5,652,789) in view of Ladd et al. (U.S. Patent No. 6,269,336). Claims 1, 12, and 23 are in independent form with other cited claims dependent on the next closest lowered numbered one of the independent claims.

In summary, Applicant respectfully submits that Miner et al and Ladd taken alone or together do not show or suggest the claimed receiving spoken instructions from a subscriber device, converting these instructions to control commands, and sending a control message corresponding to the control commands from a remote agent to the subscriber device.

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Claim 1 defines a method for a remote agent to assist with control of a subscriber device and the method comprises receiving spoken instructions from the subscriber device, converting the spoken instructions to control commands and sending a control message corresponding to these commands from the remote agent to the subscriber device all as specifically claimed.

Claim 12 defines a server including a receiver to receive spoken instructions from a subscriber unit, a controller to convert those instructions to commands and provide a corresponding control message, and a transmitter to send the control message to the subscriber unit all as specifically claimed. Claim 23 defines a software program that when executed on a processor (server) facilitates control of a subscriber device by receiving spoken instructions from the subscriber device, converting these spoken instructions to control commands and sending control commands corresponding to those spoken instructions to the subscriber device all as specifically claimed.

The Examiner in the April 25, 2005 Office Action had raised some concerns with the use of "voiced instructions" and had suggested that spoken instructions would be preferable. The Examiner had also construed the term "communications unit" broadly to include various infrastructure based entities. Applicant in the July 25, 2005 response amended the independent claims as suggested by the Examiner and to replace [communications unit] with subscriber device, and commented that the claims with these amendments would not impact the scope of the claims as filed, i.e., intended scope of the claims. Applicant also noted that the claims had further been amended to clarify the source of the spoken instructions. Note that the latter amendment may result in a narrower construction of the independent claims, e.g., clearly a construction that is not shown or suggested by the cited references for reasons noted below.

As noted in the July 25, 2005 Response, While Miner et al discusses and describes an agent or the like operating to assist a subscriber unit with receiving or sending phone calls etc., Miner et al. does not show or suggest aiding a given subscriber unit or control thereof and the like as claimed. Miner et al. in the cited passages (including col. 12, lines 34-40) or the balance of Miner et al. does not show receiving spoken instructions from a subscriber device and returning corresponding commands to that subscriber device as claimed by either independent claim 1, 12, or 23 or, at least by virtue of dependency, claims dependent thereon.

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The Examiner cites Miner et al: col. 11 – col. 12, as assisting with control of a subscriber unit from a remote agent; and figure 5, col. 11 (incoming calls from telephone 92) as showing or suggesting the claimed “receiving from the subscriber device, an instruction message that corresponds to spoken instructions;” and fig. 5, col. 11 (speech recognizer card 100) as showing the claimed “converting the spoken instructions to control commands;” and fig. 5, col.11 (suggested by his speech recognizer card 100) and col. 13, lines 49-60 (agent engages in dialog with user [see line 50] ... Then, the agent executes the task [see line 60]) shows or suggests the claimed “providing a control message corresponding to the control commands;” In Applicants respectfully considered view construing the cited passages to show or suggest the claimed features is difficult at best.

Even assuming *arguendo*, that Miner et al shows or suggests the above noted features, clearly this reference does not show or suggest “sending the control message from the remote agent to the subscriber device, thereby assisting with the control of the subscriber device” as claimed. The Examiner maintains that Miner et al at column 12, lines 34-40 shows or suggests “sending the control message to the communication unit” and in the Final Office Action maintains his §103(a) rejections. Thus Applicant presumes that the Examiner believes this passage teaches the claimed sending feature. Column 12, lines 34-40 states in entirety “Note that throughout this description the term “call” is used in its most general sense. Not only does it include a call placed over the telephone lines but it also includes the initiation of any contact over any of the other communications media including wireless communication channels, computer networks, fax channels, etc. Thus, the concept of a call is not meant to be limited only to a telephone call.” Applicant respectfully submits that whatever this passage may show or suggest it clearly does not suggest or teach or have anything to do with the claimed “sending the control message from the remote agent to the subscriber device, thereby assisting with the control of the subscriber device.”

Additionally in the Final Office Action, the Examiner states Applicant's arguments (25 Jul 2005 response) is limited to the ability to “aiding a given subscriber unit or control thereof.” Applicant apologizes if any confusion was caused and respectfully notes that the July 2005 response argues that Miner et al. does not show or suggest “receiving spoken instructions from a subscriber device and returning corresponding commands to that subscriber device all as claimed

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by either independent claim 1, 12, or 23" (see page 16, second paragraph). The Examiner further maintains that the applicant's claims only require that a subscriber device be capable of receiving a message comprising "spoken instructions" -- Since it is common for telephones to include microphones, they are more than sufficient to receive spoken or other audible input as claimed. Clearly the claimed invention requires a control message be sent from the agent to the subscriber and once again Applicant notes that Miner et al does not show or suggest the claimed sending the control message from the agent to the subscriber device... and that a telephone microphone does not show or suggest such a feature.

Applicant noted in the July 2005 response, that Ladd et al. deals with a voice accessed browser and does not supply or suggest taken alone or with Miner et al the missing teachings (see page 16, end of second paragraph). Applicant notes and agrees that Ladd discusses a cell phone and the like using such a voice accessed browser, however asserts that this (with or without Miner et al) does not show or suggest the claimed features discussed above.

Therefore and at least in view of the reasons noted above, Applicant respectfully submits that Miner et al and Ladd et al taken alone or together do not show or suggest the claimed invention of either claim 1, 12, or 23 or at least by virtue of dependency, any of the dependent claims and hence these references do not support a §103(a) rejection of these claims. Thus, Applicant respectfully requests that the Examiner reconsider and withdraw this rejection of claims 1-3, 6, 7, 12-14, 17, 18, 23, 24, and 26 under 35 U.S.C. 103(a) based on Miner et al (U.S. Patent No. 5,665,789) in view of Ladd et al. (U.S. Patent No. 6,269,336).

b. Claims 8-11, and 19-22 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Miner in view of Ladd as applied to claim 7 above, and further in view of Lucent (Lucent Unveils Bell Labs Predictive Algorithms for Call Centers, 4 Feb 1998).

As noted in the July, 2005 response, Claims 8-11 are dependent on claim 1 and claims 19-22 are dependent on claim 12. Lucent does not show the features of claim 1 or 12 that are absent from the combination of Miner et al and Ladd et al. and thus claims 1 and 12 appear to be allowable over this combination of references. Thus at least by virtue of dependency on an allowable claim, dependent claims 8-11, and 19-22 should also be allowable. Therefore,

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Applicant respectfully requests that the Examiner reconsider and withdraw this rejection of claims 8-11, and 19-22 under 35 U.S.C. 103(a) based on Miner in view of Ladd and further in view of Lucent (Lucent Unveils Bell Labs Predictive Algorithms for Call Centers, 4 Feb 1998).

c. Claims 4, 5, 15, 16, and 25 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Miner in view of Ladd as applied to claim 1 above, in further view of Newton (Newton's Telecom Dictionary).

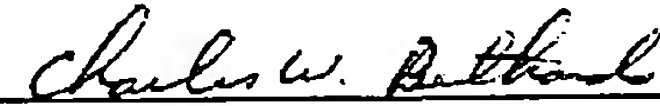
As noted in the July, 2005 response, Claims 4 and 5 are dependent on claim 1, claims 15 and 16 are dependent on claim 12 and claim 25 is dependent on claim 23. Newton does not show the features of claim 1, 12, or 23 that are absent from the combination of Miner et al and Ladd et al and thus claims 1, 12, and 23 appear to be allowable over this combination of references. Thus at least by virtue of dependency on an allowable claim, dependent claims 4, 5, 16, and 25 should also be allowable. Therefore, Applicant respectfully requests that the Examiner reconsider and withdraw this rejection of claims 4, 5, 15, 16, and 25 under 35 U.S.C. 103(a) based on Miner in view of Ladd and further in view of Newton (Newton's Telecom Dictionary).

Accordingly, Applicant respectfully submits that the claims, as amended, clearly and patentably distinguish over the cited references of record and as such are to be deemed allowable. Such allowance is hereby earnestly and respectfully solicited at an early date. If the Examiner has any suggestions or comments or questions, calls are welcomed at the phone number below.

Although it is not anticipated that any fees are due or payable other than the separately noted Notice of Appeal fee, the Commissioner is hereby authorized to charge any fees that may be required to Deposit Account No. 50-3435.

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Respectfully submitted,

  
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